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Attorneys for Plaintiff and Proposed Class

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

ALICIA HARRIS, as an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

VECTOR MARKETING
CORPORATION, a Pennsylvania
corporation; and DOES 1 through 20,
inclusive,

Defendants.

CASE NO. CV 08-5198 EMC

(Assigned to Hon. Edward M. Chen)

**PLAINTIFF'S OBJECTION TO
DEFENDANT'S SUPPLEMENTAL BRIEF IN
SUPPORT OF ITS MOTIONS TO
DECERTIFY FLSA COLLECTIVE ACTION
AND RULE 23 CLAIMS**

DATE: October 27, 2010
TIME: 10:30 a.m.
CTRM: C
JUDGE: Hon. Edward M. Chen

Discovery Cutoff: March 2, 2011
Trial Date: June 6, 2011

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Additional Plaintiff's Counsel

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1 Plaintiff hereby objects to Defendant's Supplemental Brief In Support of Its Motions to
2 Decertify FLSA Collective Action and Rule 23 Claims and requests that this Court strike all
3 extraneous argument included therein. Regrettably, Defendant has sought to capitalize on this Court's
4 request for further briefing by injecting unsolicited and improper argument into its Supplemental
5 Brief, thus giving itself what amounts to five bites at the same apple. Although this Court very clearly
6 requested briefing *only* as to the discreet issue of the extent to which this Court may look to
7 interpretations of California law set forth in DLSE opinion letters, Defendant's brief grossly exceeds
8 this request.

9 Defendant's brief is littered with case law and arguments pertaining to issues well-beyond that
10 solicited by the Court. Amazingly, in its Supplemental Brief, Defendant even manages to attack
11 Plaintiff's adequacy as class representative! Although Defendant's request for additional briefing on
12 other issues was expressly denied by this Court, Defendant was undeterred. Defendant still submitted
13 whatever it wanted¹. Accordingly, Plaintiff respectfully requests that this Court strike section II from
14 Defendant's brief as it contains additional argument and citation to case law which was not solicited
15 by this Court and which was therefore improperly included in Defendant's Supplemental Brief.

16 When stripped of its extraneous argument, it is clear that the parties agree as to the proper
17 degree of weight to afford the DLSE opinion letters. Both Plaintiff and Defendant have submitted to
18 this Court that, while DLSE opinion letters are not entitled to deference, Courts may nevertheless
19 adopt the opinions and interpretation of California law espoused therein, provided that the court
20 "independently determine" that such opinions are correct. Given that the opinion letter in question

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27 ¹Plaintiff reminds this Court that Defendant previously filed a reply brief in support of *both*
28 of its Motions to Decertify in direct contravention to this Court's clear directive that reply briefs
were not to be filed.

DATED: November 1, 2010

By: /S/
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